FILED
MAR 25 2008
U.S. DISTRICT COURT
CLARKSBURG, WV 26301

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

THEODORE GLADYSZ,
Plaintiff, Pro Se,

v.

GEORGE TRENT, C.O. JACOBY,
C.O. McCLAIN, C.O. GASKINS,
C.O. ELDERS, C.O. McCRAY,
Defendant[s].

3:08 cv 64

Complaint pursuant to 42 U.S.C. §1983

Complaint Summary

Comes now Theodore Gladysz, reg #05522-087, pro se, and hereby files this complaint seeking damages and declaratory relief for the Defendants "willfully and knowingly" violating Gladysz's rights and doing so under color of state law.

Jurisdiction

This Court has jurisdiction over Gladysz's claims of federal constitutional violations under 42 U.S.C. §1983.

Constitutional Rights Violated

1st Amendment

8th Amendment

Parties

1. The plaintiff, Theodore Gladyszs, was incarcerated at the North Central Regional Jail ("NCR jail") in Dodridge County, West Virginia, during the events described in this complaint.

2. Defendant George Trent is the administrator at NCR jail. He is sued in his individual capacity.

3. Defendant McClain is a correctional officer ("co") employed at NCR jail. He is sued in his individual capacity.

4. Defendant Elders is a co employed at NCR jail. He is sued in his individual capacity.

5. Defendant Jacoby is a co employed at NCR jail. He is sued in his individual capacity.

6. Defendant Gaskins is a co employed at NCR jail. He is sued in his individual capacity.

7. Defendant McCray is a co employed at NCR jail. He is sued in his individual capacity.

Facts

8. On April 1, 2007, Gladysz, along with his cellmate, were sitting in their locked cell at NCR jail.

9. Gladysz's cellmate kicked a small bar of soap under the cell door which subsequently landed near where Defendants Jacoby and McClain were seated.

10. Defendants Jacoby and McClain then instructed Gladysz to remain seated on his bed and not to move while they removed Gladysz's cellmate from the cell.

11. Defendants Jacoby and McClain then proceeded to beat Gladysz's cellmate once he was outside of the cell.

12. Next, Defendants Jacoby, McClain, and Gaskins, among others, came back to the cell and ordered Gladysz to lie facedown on the floor.

13. Defendants Jacoby, McClain, and Gaskins, among others, then entered the cell and proceeded to beat, kick, and mace Gladysz for 10 - 15 minutes.

14. These Defendants, among others and in addition to beating Gladysz, repeatedly maced Gladysz in his eyes, mouth, and ears.

15. During the course of this attack on Gladysz by these Defendants, Gladysz's middle finger on his left hand was broken, his left shoulder was injured, a nerve was pinched in his neck, and his knees were severely injured.

16. Gladysz also had his eyes poked and his ribs repeatedly kicked and he received multiple bruises and lacerations from this beating.

17. Gladysz was then cuffed and shackled while he was in pain and screaming for water to stop the burning caused by the mace and taken to the recreation yard.

18. Defendants Jacoby, McClain, and Gaskins, among others, then created a game in which Gladysz had to walk one complete lap around the recreation yard while shackled and cuffed without talking, crying, or making any noise at all.

19. Every time Gladysz successfully completed a lap, he was afforded one splash of water on his burning face.

20. If Gladysz made any sound or otherwise did not follow their rules of the game, he did not receive any water and had to start all over again.

21. This game went on for about 45 minutes while Defendants Jacoby, McClain, and Gaskins, among others, laughed.

22. Gladysz was then stripped to his underwear and left in a cold cell for 2 days with no running water, no bedding or blankets, nothing at all except the underwear that he had on.

23. When Gladysz complained that he was cold or needed water, Defendant McClain threatened Gladysz stating "keep your mouth shut or I'll spray your ass again."

24. Gladysz attempted to inform Defendant George Trent about the events described in this complaint, stating that he will go to Defendant Trent's superiors about it.

25. Defendant Trent threatened Gladysz stating "keep your mouth shut or things are going to get a hell of alot worse."

26. As Gladysz was being verbally threatened by Defendant Trent, Defendant Elders was standing by with a can of mace at the ready in a threatening manner, as if to spray Gladysz.

27. Additionally, Defendant McCray would not allow Gladysz access to his knee braces or medical shoes, which Gladysz needed to walk without pain and to prevent further damage to his knees.

28. Gladysz's orthopedic knee brace and shoes were prescribed by an outside doctor and approved by Mr. Kimball, the medical administrator at NCR jail.

29. When Gladysz stated that he needed the already approved knee braces and shoes, Defendant McCray threatened Gladysz stating "keep your mouth shut you little maggot or you could end up dead like those other guys."

30. Gladysz sustained multiple injuries as a result of the events described in this complaint.

31. These injuries consisted of: a broken finger; a nerve injury in his neck; a joint injury in his shoulder; a pinched nerve in his neck; dizzines when he turns his head; and further injuries to his already ailing knees.

32. Gladysz is still dealing with these physical injuries today as 1) his broken finger was never attended to so it has healed crooked 2) his injury in his neck still causes pain and dizziness when he turns his head 3) his shoulder and both knees are in constant pain.

33. Gladysz also sustained emotional and psychological injuries from the events described in this complaint.

Claims for Relief

34. The actions of Defendants Jacoby, McClain, and Gaskins violated Gladysz's 8th amendment right.

35. The actions' of Defendants Trent and Elders violated Gladysz's 1st amendment rights.

36. The action's of Defendant McCray violated Gladysz's 1st and 8th amendment rights and constituted deliberate indifference.

Relief Requested

Wherefore, Gladysz requests that this Honorable Court grant the following relief:

A. Issue a declaratory judgment that:

1. The actions' of Defendants Jacoby, McClain, and Gaskins violated Gladysz's 8th amenment right.

2. The actions' of Defendants Trent and Elders violated Gladysz's 1st amendment right.

3. The action's of Defendant McCray violated Gladysz's 1st and 8th amendment rights and constituted deliberate indifference.

B. Award compensatory damages as follows:

1. $1,000,000 jointly against all Defendants for the physical injuries sustained as a result of illegal conduct.

2. Also for emotional and psychological injuries sustained as a result of illegal conduct.

C. Award punitive damages as follows:

1. $500,000 jointly against all of the Defendants for violating Gladysz's rights and to deter any future disregard of law.

D. Grant such other relief as it may appear Gladysz is entitled.

In the interest of justice, Gladysz prays that this Honorable Court grants the relief requested.

DATE: March 16th, 2008

SIGNED: Theodore R. Gladysz
Theodore Gladysz